

ASSEMBLY, No. 5309

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 13, 2019

Sponsored by:

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Authorizes workforce housing transfer agreements for meeting moderate income housing obligation; establishes funding preferences for receiving municipalities.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT authorizing workforce housing transfer agreements,
2 amending various parts of the statutory law, and supplementing
3 P.L.1985, c.222.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) The Legislature finds and declares that:

9 a. The affordable housing needs of the State should be satisfied
10 in an equitable manner throughout all municipalities, regardless of
11 demographic profile;

12 b. For many municipalities, the satisfaction of existing fair
13 share affordable housing obligations could potentially result in
14 significant challenges to local population, infrastructure, and school
15 resources;

16 c. The workforce housing transfer agreement, established
17 pursuant to P.L. , c. (C.) (pending before the Legislature as
18 this bill), is intended as a mechanism to allow municipalities to
19 more effectively address the infrastructural challenges of providing
20 affordable housing, while also ensuring that affordable housing is
21 provided for the low and moderate income population of the State
22 in an equitable manner throughout both urban and suburban
23 locations;

24 d. Through a workforce housing transfer agreement, if the
25 governing body of a municipality believes it is unreasonably
26 burdened by a large affordable housing obligation, the municipality
27 would be able transfer some or all of the moderate income portion
28 of its obligation to another municipality in the State, but would still
29 be responsible for the low income portion of the obligation;

30 e. As a consequence of a workforce housing transfer
31 agreement, a municipality that accepts an additional moderate
32 income housing obligation is likely to experience increased pressure
33 on existing local infrastructure;

34 f. Although workforce housing transfer agreements are
35 intended to serve as an important tool in the construction of
36 affordable housing, these infrastructural concerns may deter some
37 municipalities from entering into the agreements;

38 g. By providing preferential funding for infrastructure
39 improvement projects in municipalities that accept additional
40 moderate income housing obligations, P.L. , c. (C.) (pending
41 before the Legislature as this bill) is meant to ensure that
42 municipalities which enter into workforce housing transfer
43 agreements are not overburdened by potential infrastructural needs;

44 h. Furthermore, P.L. , c. (C.) (pending before the
45 Legislature as this bill) rewards those municipalities willing to

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 accept an additional affordable housing obligation by broadening
2 the scope of what constitutes moderate income housing within their
3 boundaries; and

4 i. Finally, by providing that sending municipalities may only
5 transfer the moderate income portion of their affordable housing
6 obligations, P.L. , c. (C.) (pending before the Legislature as
7 this bill) is meant to ensure that housing is provided throughout the
8 State in an equitable manner, and that municipalities which choose
9 to send some of their obligation continue to hold a substantial,
10 enforceable responsibility for providing housing to the most
11 vulnerable segment of the population.

12

13 2. (New section) a. On or before the first day of the sixth
14 month next following enactment, the Executive Director of the
15 Housing and Mortgage Finance Agency, in accordance with the
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
17 seq.), shall adopt any rules and regulations necessary for the
18 implementation of P.L. , c. (C.) (pending before the
19 Legislature as this bill), including, but not limited to standards for
20 adjustments to affordability average requirements in a municipality
21 engaged in a workforce housing transfer agreement, in accordance
22 with subsection h. of section 12 of P.L.1985, c.222 (C.52:27D-312).

23 b. On or before the first day of the sixth month next following
24 enactment, the Commissioner of Community Affairs, in accordance
25 with the "Administrative Procedure Act," P.L.1968, c.410
26 (C.52:14B-1 et seq.), shall adopt any rules and regulations
27 necessary for the implementation of P.L. , c. (C.) (pending
28 before the Legislature as this bill), including, but not limited to
29 rules and regulations setting forth the safeguards sufficient to
30 ensure that workforce housing transfer agreement funding is applied
31 for purposes consistent with the agreement and with the "Fair
32 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).

33

34 3. (New section) a. Notwithstanding any provision of law to
35 the contrary, the Commissioner of Environmental Protection shall,
36 to the extent possible, expedite the review of any permit or approval
37 within the authority of the Department of Environmental Protection
38 that is submitted in conjunction with a proposal to develop low or
39 moderate income housing in a municipality for which the moderate
40 income housing obligation is increased pursuant to a workforce
41 housing transfer agreement, as set forth in section 12 of P.L.1985,
42 c.222 (C.52:27D-312).

43 b. The Commissioner of Environmental Protection shall
44 promulgate rules and regulations pursuant to the "Administrative
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
46 the provisions of this section on or before the first day of the sixth
47 month next following the enactment of P.L. , c. (C.)
48 (pending before the Legislature as this bill).

1 4. Section 2 of P.L.1985, c.222 (C.52:27D-302) is amended to
2 read as follows:

3 2. The Legislature finds that:

4 a. The New Jersey Supreme Court, through its rulings in South
5 Burlington County NAACP v. Mount Laurel, 67 N.J. 151 (1975)
6 and South Burlington County NAACP v. Mount Laurel, 92 N.J. 158
7 (1983), has determined that every municipality in a growth area has
8 a constitutional obligation to provide through its land use
9 regulations a realistic opportunity for a fair share of its region's
10 present and prospective needs for housing for low and moderate
11 income families.

12 b. In the second Mount Laurel ruling, the Supreme Court stated
13 that the determination of the methods for satisfying this
14 constitutional obligation "is better left to the Legislature," that the
15 court has "always preferred legislative to judicial action in their
16 field," and that the judicial role in upholding the Mount Laurel
17 doctrine "could decrease as a result of legislative and executive
18 action."

19 c. The interest of all citizens, including low and moderate
20 income families in need of affordable housing, and the needs of the
21 workforce, would be best served by a comprehensive planning and
22 implementation response to this constitutional obligation.

23 d. There are a number of essential ingredients to a
24 comprehensive planning and implementation response, including
25 the establishment of reasonable fair share housing guidelines and
26 standards, the initial determination of fair share by officials at the
27 municipal level and the preparation of a municipal housing element,
28 State review of the local fair share study and housing element, and
29 continuous State funding for low and moderate income housing to
30 replace the federal housing subsidy programs which have been
31 almost completely eliminated.

32 e. The State can maximize the number of low and moderate
33 income units provided in New Jersey by allowing its municipalities
34 to adopt appropriate phasing schedules for meeting their fair share,
35 so long as the municipalities permit a timely achievement of an
36 appropriate fair share of the regional need for low and moderate
37 income housing as required by the Mt. Laurel I and II opinions and
38 other relevant court decisions.

39 f. The State can also maximize the number of low and
40 moderate income units by creating new affordable housing and by
41 rehabilitating existing, but substandard, housing in the State.
42 **【Because the Legislature has determined, pursuant to P.L.2008,**
43 **c.46 (C.52:27D-329.1 et al.), that it is no longer appropriate or in**
44 **harmony with the Mount Laurel doctrine to permit the transfer of**
45 **the fair share obligations among municipalities within a housing**
46 **region, it is necessary and appropriate to create a new program to**
47 **create new affordable housing and to foster the rehabilitation of**
48 **existing, but substandard, housing.】**

1 g. Since the urban areas are vitally important to the State,
2 construction, conversion and rehabilitation of housing in our urban
3 centers should be encouraged. However, the provision of housing
4 in urban areas must be balanced with the need to provide housing
5 throughout the State for the free mobility of citizens.

6 h. The Supreme Court of New Jersey in its Mount Laurel
7 decisions demands that municipal land use regulations affirmatively
8 afford a reasonable opportunity for a variety and choice of housing
9 including low and moderate cost housing, to meet the needs of
10 people desiring to live there. While provision for the actual
11 construction of that housing by municipalities is not required, they
12 are encouraged but not mandated to expend their own resources to
13 help provide low and moderate income housing.

14 i. Certain amendments to the enabling act of the Council on
15 Affordable Housing are necessary to provide guidance to the
16 council to ensure consistency with the legislative intent, while at the
17 same time clarifying the limitations of the council in its rulemaking.
18 Although the court has remarked in several decisions that the
19 Legislature has granted the council considerable deference in its
20 rulemaking, the Legislature retains its power and obligation to
21 clarify and amend the enabling act from which the council derives
22 its rulemaking power, from time to time, in order to better guide the
23 council.

24 j. The Legislature finds that the use of **【regional contribution】**
25 workforce housing transfer agreements, which **【permits】** permit
26 municipalities to transfer a certain portion of their fair share
27 housing obligation outside of the municipal borders, should **【no**
28 **longer】** be available to municipalities as a mechanism for the
29 creation of **【affordable】** moderate income housing
30 **【by the council】**, but that pursuant to P.L.2008, c.46 (C.52:27D-
31 329.1 et al.), regional contribution agreements should no longer be
32 utilized.

33 (cf: P.L.2008, c.46, s.4)

34
35 5. Section 4 of P.L.1985, c.222 (C.52:27D-304) is amended to
36 read as follows:

37 4. As used in P.L.1985, c.222 (C.52:27D-301 et al.):

38 a. "Council" means the Council on Affordable Housing
39 established in P.L.1985, c.222 (C.52:27D-301 et al.), which shall
40 have primary jurisdiction for the administration of housing
41 obligations in accordance with sound regional planning
42 considerations in this State.

43 b. "Housing region" means a geographic area of not less than
44 two nor more than four contiguous, whole counties which exhibit
45 significant social, economic and income similarities, and which
46 constitute to the greatest extent practicable the primary metropolitan

- 1 statistical areas as last defined by the United States Census Bureau
2 prior to the effective date of P.L.1985, c.222 (C.52:27D-301 et al.).
- 3 c. "Low income housing" means housing affordable according
4 to federal Department of Housing and Urban Development or other
5 recognized standards for home ownership and rental costs and
6 occupied or reserved for occupancy by households with a gross
7 household income equal to 50 percent or less of the median gross
8 household income for households of the same size within the
9 housing region in which the housing is located.
- 10 d. "Moderate income housing" means housing affordable
11 according to federal Department of Housing and Urban
12 Development or other recognized standards for home ownership
13 and rental costs and occupied or reserved for occupancy by
14 households with a gross household income equal to more than
15 **[50%]** 50 percent but less than 80 percent of the median gross
16 household income for households of the same size within the
17 housing region in which the housing is located. "Moderate income
18 housing" also includes workforce housing when used in reference to
19 a receiving municipality that has entered into a workforce housing
20 transfer agreement on or after the effective date of P.L. , c.
21 (C.) (pending before the Legislature as this bill).
- 22 e. "Resolution of participation" means a resolution adopted by
23 a municipality in which the municipality chooses to prepare a fair
24 share plan and housing element in accordance with P.L.1985, c.222
25 (C.52:27D-301 et al.).
- 26 f. "Inclusionary development" means a residential housing
27 development in which a substantial percentage of the housing units
28 are provided for a reasonable income range of low and moderate
29 income households.
- 30 g. "Conversion" means the conversion of existing commercial,
31 industrial, or residential structures for low and moderate income
32 housing purposes where a substantial percentage of the housing
33 units are provided for a reasonable income range of low and
34 moderate income households.
- 35 h. "Development" means any development for which
36 permission may be required pursuant to the "Municipal Land Use
37 Law," P.L.1975, c.291 (C.40:55D-1 et seq.).
- 38 i. "Agency" means the New Jersey Housing and Mortgage
39 Finance Agency established by P.L.1983, c.530 (C.55:14K-1 et
40 seq.).
- 41 j. "Prospective need" means a projection of housing needs
42 based on development and growth which is reasonably likely to
43 occur in a region or a municipality, as the case may be, as a result
44 of actual determination of public and private entities. In
45 determining prospective need, consideration shall be given to
46 approvals of development applications, real property transfers, and
47 economic projections prepared by the State Planning Commission

1 established by sections 1 through 12 of P.L.1985, c.398 (C.52:18A-
2 196 et seq.).

3 k. "Person with a disability" means a person with a physical
4 disability, infirmity, malformation, or disfigurement which is
5 caused by bodily injury, birth defect, aging, or illness including
6 epilepsy and other seizure disorders, and which shall include, but
7 not be limited to, any degree of paralysis, amputation, lack of
8 physical coordination, blindness or visual impairment, deafness or
9 hearing impairment, the inability to speak or a speech impairment,
10 or physical reliance on a service animal, wheelchair, or other
11 remedial appliance or device.

12 l. "Adaptable" means constructed in compliance with the
13 technical design standards of the barrier free subcode adopted by
14 the Commissioner of Community Affairs pursuant to the "State
15 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119
16 et seq.) and in accordance with the provisions of section 5 of
17 P.L.2005, c.350 (C.52:27D-123.15).

18 m. "Very low income housing" means housing affordable
19 according to federal Department of Housing and Urban
20 Development or other recognized standards for home ownership
21 and rental costs and occupied or reserved for occupancy by
22 households with a gross household income equal to 30 percent or
23 less of the median gross household income for households of the
24 same size within the housing region in which the housing is located.

25 n. "Affordability average" means an average of the percentage
26 of median income, by household size for an applicable county, at
27 which price-restricted units in a development are affordable to low
28 and moderate income households, calculated in accordance with the
29 rules and regulations of the agency.

30 o. "Moderate income housing share" means the percentage of
31 all price-restricted housing units in new developments within a
32 municipality that are permitted to be moderate income units, as
33 opposed to low-income units.

34 p. "Workforce housing transfer agreement" means an
35 agreement concerning the transfer of a portion of a municipality's
36 fair share affordable housing obligation, entered into pursuant to
37 section 12 of P.L.1985, c.222 (C.52:27D-312).

38 q. "Workforce housing" means housing affordable to,
39 according to federal Department of Housing and Urban
40 Development or other recognized standards for home ownership
41 and rental costs, and occupied by, or reserved for occupancy by, a
42 household with a gross household income equal to more than 80
43 percent but less than 120 percent of the median gross household
44 income for households of the same size within the housing region in
45 which the housing is located, and that may be reserved for
46 occupancy by a household with at least one member working or
47 living in the municipality upon submittal of the application for

1 workforce housing.
2 (cf: P.L.2017, c.131, s.199)

3
4 6. Section 11 of P.L.1985, c.222 (C.52:27D-311) is amended to
5 read as follows:

6 11. a. In adopting its housing element, the municipality may
7 provide for its fair share of low and moderate income housing by
8 means of any technique or combination of techniques which provide
9 a realistic opportunity for the provision of the fair share. The
10 housing element shall contain an analysis demonstrating that it will
11 provide such a realistic opportunity, and the municipality shall
12 establish that its land use and other relevant ordinances have been
13 revised to incorporate the provisions for low and moderate income
14 housing. In preparing the housing element, the municipality shall
15 consider the following techniques for providing low and moderate
16 income housing within the municipality, as well as such other
17 techniques as may be published by the council or proposed by the
18 municipality:

19 (1) Rezoning for densities necessary to assure the economic
20 viability of any inclusionary developments, either through
21 mandatory set-asides or density bonuses, as may be necessary to
22 meet all or part of the municipality's fair share in accordance with
23 the regulations of the council and the provisions of subsection h. of
24 this section;

25 (2) Determination of the total residential zoning necessary to
26 assure that the municipality's fair share is achieved;

27 (3) Determination of measures that the municipality will take to
28 assure that low and moderate income units remain affordable to low
29 and moderate income households for an appropriate period of not
30 less than six years;

31 (4) A plan for infrastructure expansion and rehabilitation if
32 necessary to assure the achievement of the municipality's fair share
33 of low and moderate income housing;

34 (5) Donation or use of municipally owned land or land
35 condemned by the municipality for purposes of providing low and
36 moderate income housing;

37 (6) Tax abatements for purposes of providing low and moderate
38 income housing;

39 (7) Utilization of funds obtained from any State or federal
40 subsidy toward the construction of low and moderate income
41 housing;

42 (8) Utilization of municipally generated funds toward the
43 construction of low and moderate income housing; and

44 (9) The purchase of privately owned real property used for
45 residential purposes at the value of all liens secured by the property,
46 excluding any tax liens, notwithstanding that the total amount of
47 debt secured by liens exceeds the appraised value of the property,
48 pursuant to regulations promulgated by the Commissioner of

1 Community Affairs pursuant to subsection b. of section 41 of
2 P.L.2000, c.126 (C.52:27D-311.2).

3 b. The municipality may provide for a phasing schedule for the
4 achievement of its fair share of low and moderate income housing.

5 c. (Deleted by amendment, P.L.2008, c.46)

6 d. Nothing in P.L.1985, c.222 (C.52:27D-301 et al.) shall
7 require a municipality to raise or expend municipal revenues in
8 order to provide low and moderate income housing.

9 e. When a municipality's housing element includes the
10 provision of rental housing units in a community residence for the
11 developmentally disabled, as defined in section 2 of P.L.1977,
12 c.448 (C.30:11B-2), which will be affordable to persons of low and
13 moderate income, and for which adequate measures to retain such
14 affordability pursuant to paragraph (3) of subsection a. of this
15 section are included in the housing element, those housing units
16 shall be fully credited as permitted under the rules of the council
17 towards the fulfillment of the municipality's fair share of low and
18 moderate income housing.

19 f. It having been determined by the Legislature that the
20 provision of housing under P.L.1985, c.222 (C.52:27D-301 et al.) is
21 a public purpose, a municipality or municipalities may utilize public
22 monies to make donations, grants or loans of public funds for the
23 rehabilitation of deficient housing units and the provision of new or
24 substantially rehabilitated housing for low and moderate income
25 persons, providing that any private advantage is incidental.

26 g. A municipality which has received substantive certification
27 from the council, and which has actually effected the construction
28 of the affordable housing units it is obligated to provide, may
29 amend its affordable housing element or zoning ordinances without
30 the approval of the council.

31 h. Whenever affordable housing units are proposed to be
32 provided through an inclusionary development, a municipality shall
33 provide, through its zoning powers, incentives to the developer,
34 which shall include increased densities and reduced costs, in
35 accordance with the regulations of the council and this subsection.

36 i. The council, upon the application of a municipality and a
37 developer, may approve reduced affordable housing set-asides or
38 increased densities to ensure the economic feasibility of an
39 inclusionary development.

40 j. A municipality may enter into an agreement with a
41 developer or residential development owner to provide a preference
42 for affordable housing to low to moderate income veterans who
43 served in time of war or other emergency, as defined in section 1 of
44 P.L.1963, c.171 (C.54:4-8.10), of up to 50 percent of the affordable
45 units in that particular project. This preference shall be established
46 in the applicant selection process for available affordable units so
47 that applicants who are veterans who served in time of war or other
48 emergency, as referenced in this subsection, and who apply within

1 90 days of the initial marketing period shall receive preference for
2 the rental of the agreed-upon percentage of affordable units. After
3 the first 90 days of the initial 120-day marketing period, if any of
4 those units subject to the preference remain available, then
5 applicants from the general public shall be considered for
6 occupancy. Following the initial 120-day marketing period,
7 previously qualified applicants and future qualified applicants who
8 are veterans who served in time of war or other emergency, as
9 referenced in this subsection, shall be placed on a special waiting
10 list as well as the general waiting list. The veterans on the special
11 waiting list shall be given preference for affordable units, as the
12 units become available, whenever the percentage of preference-
13 occupied units falls below the agreed upon percentage. Any
14 agreement to provide affordable housing preferences for veterans
15 pursuant to this subsection shall not affect a municipality's ability to
16 receive credit for the unit from the council, or its successor.

17 k. The municipality may propose that a portion of its fair share
18 obligation shall be met through a workforce housing transfer
19 agreement. The housing element shall identify an alternate way of
20 meeting that portion of its fair share obligation if a workforce
21 housing transfer agreement is not entered. The municipality shall
22 provide a statement of its reasons for the proposal.

23 (cf: P.L.2013, c.6, s.1)

24
25 7. Section 12 of P.L.1985, c.222 (C.52:27D-312) is amended to
26 read as follows:

27 12. a. **【Except as prohibited under P.L.2008, c.46 (C.52:27D-**
28 **329.1 et al.), a】** A municipality may propose the transfer of up to
29 **【50%】** 50 percent of its fair share to another municipality
30 **【within】**, regardless of its housing region, by means of a
31 contractual workforce housing transfer agreement into which the
32 two municipalities voluntarily enter. A municipality may also
33 propose a transfer by contracting with the agency or another
34 governmental entity designated by the council if the council
35 determines that the municipality has exhausted all possibilities
36 **【within its housing region】** with other municipalities. A
37 municipality proposing to transfer to another municipality, whether
38 directly or by means of a contract with the agency or another
39 governmental entity designated by the council, shall provide the
40 council with the housing element and statement required under
41 **【subsection c.】** subsection k. of section 11 of P.L.1985, c.222
42 (C.52:27D-311), and shall request the council to determine a match
43 with a municipality filing a statement of intent pursuant to
44 subsection e. of this section. **【Except as provided in subsection b.**
45 **of this section, the】** The agreement may be entered into upon
46 obtaining substantive certification under section 14 of P.L.1985,
47 c.222 (C.52:27D-314), or anytime thereafter. The **【regional**

1 contribution] workforce housing transfer agreement entered into
2 shall specify how the housing shall be provided by the second
3 municipality, hereinafter the receiving municipality, and the amount
4 of contributions to be made by the first municipality, hereinafter the
5 sending municipality.

6 b. [A municipality which is a defendant in an exclusionary
7 zoning suit and which has not obtained substantive certification
8 pursuant to P.L.1985, c.222 may request the court to be permitted to
9 fulfill a portion of its fair share by entering into a regional
10 contribution agreement. If the court believes the request to be
11 reasonable, the court shall request the council to review the
12 proposed agreement and to determine a match with a receiving
13 municipality or municipalities pursuant to this section. The court
14 may establish time limitations for the council's review, and shall
15 retain jurisdiction over the matter during the period of council
16 review. If the court determines that the agreement provides a
17 realistic opportunity for the provision of low and moderate income
18 housing within the housing region, it shall provide the sending
19 municipality a credit against its fair share for housing to be
20 provided through the agreement in the manner provided in this
21 section. The agreement shall be entered into prior to the entry of a
22 final judgment in the litigation. In cases in which a final judgment
23 was entered prior to the date P.L.1985, c.222 takes effect and in
24 which an appeal is pending, a municipality may request
25 consideration of a regional contribution agreement; provided that it
26 is entered into within 120 days after P.L.1985, c.222 takes effect.
27 In a case in which a final judgment has been entered, the court shall
28 consider whether or not the agreement constitutes an expeditious
29 means of providing part of the fair share. Notwithstanding this
30 subsection, no consideration shall be given to any regional
31 contribution agreement of which the council did not complete its
32 review and formally approve a recommendation to the court prior to
33 the effective date of P.L.2008, c.46 (C.52:27D-329.1 et al.).]
34 (Deleted by amendment, P.L. , c.) (pending before the
35 Legislature as this bill)

36 c. [Except as prohibited under P.L.2008, c.46 (C.52:27D-329.1
37 et al.), regional contribution agreements shall be approved by the]
38 The council shall approve a workforce housing transfer agreement
39 that conforms to the requirements of this section, after review by
40 the county planning board or agency of the county in which the
41 receiving municipality is located. The council shall determine
42 whether or not the agreement provides a realistic opportunity for the
43 provision of low and moderate income housing within convenient
44 access to employment opportunities. The council shall refer the
45 agreement to the county planning board or agency which shall
46 review whether or not the transfer agreement is in accordance with
47 sound, comprehensive regional planning. In its review, the county

1 planning board or agency shall consider the master plan and zoning
2 ordinance of the sending and receiving municipalities, its own
3 county master plan, and the State development and redevelopment
4 plan. In the event that there is no county planning board or agency
5 in the county in which the receiving municipality is located, the
6 council shall also determine whether or not the agreement is in
7 accordance with sound, comprehensive regional planning. The
8 council shall review the agreement to confirm that it contains
9 sufficient safeguards to ensure that contributions to the receiving
10 municipality are applied for purposes consistent with the agreement
11 and with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et
12 al.). After it has been determined that the agreement provides a
13 realistic opportunity for low and moderate income housing within
14 convenient access to employment opportunities, **【and that the**
15 **agreement】** is consistent with sound, comprehensive regional
16 planning, and contains sufficient safeguards to ensure that
17 contributions are applied for acceptable purposes, the council shall
18 approve the **【regional contribution】** workforce housing transfer
19 agreement by resolution. All determinations of a county planning
20 board or agency shall be in writing and shall be made within such
21 time limits as the council may prescribe, beyond which the council
22 shall make those determinations and no fee shall be paid to the
23 county planning board or agency pursuant to this subsection.

24 d. In approving a **【regional contribution】** workforce housing
25 transfer agreement, the council shall set forth in its resolution a
26 schedule of the contributions to be appropriated annually by the
27 sending municipality. A copy of the adopted resolution shall be
28 filed promptly with the Director of the Division of Local
29 Government Services in the Department of Community Affairs, and
30 the director shall thereafter not approve an annual budget of a
31 sending municipality if it does not include appropriations necessary
32 to meet the terms of the resolution. Amounts appropriated by a
33 sending municipality for a **【regional contribution】** workforce
34 housing transfer agreement pursuant to this section are exempt from
35 the limitations or increases in final appropriations imposed under
36 P.L.1976, c.68 (C.40A:4-45.1 et seq.).

37 e. The council shall maintain current lists of municipalities
38 which have stated an intent to enter into **【regional contribution】**
39 workforce housing transfer agreements as receiving municipalities,
40 and shall establish procedures for filing statements of intent with
41 the council. No receiving municipality shall be required to accept a
42 greater number of low and moderate income units through an
43 agreement than it has expressed a willingness to accept in its
44 statement, but the number stated shall not be less than a reasonable
45 minimum number of units, not to exceed 100, as established by the
46 council. The council shall require a project plan from a receiving
47 municipality prior to the entering into of the agreement, and shall

1 submit the project plan to the agency for its review as to the
2 feasibility of the plan prior to the council's approval of the
3 agreement. The agency may recommend and the council may
4 approve as part of the project plan a provision that the time
5 limitations for contractual guarantees or resale controls for low and
6 moderate income units included in the project shall be less than 30
7 years, if it is determined that modification is necessary to assure the
8 economic viability of the project.

9 f. The council shall establish guidelines for the duration and
10 amount of contributions in **【regional contribution】** workforce
11 housing transfer agreements. In doing so, the council shall give
12 substantial consideration to the average of: (1) the median amount
13 required to rehabilitate a low and moderate income unit up to code
14 enforcement standards; (2) the average internal subsidization
15 required for a developer to provide a low and moderate income
16 housing unit in an inclusionary development; (3) the average
17 internal subsidization required for a developer to provide a
18 moderate income housing unit in an inclusionary development.
19 Contributions may be prorated in municipal appropriations
20 occurring over a period not to exceed ten years and may include an
21 amount agreed upon to compensate or partially compensate the
22 receiving municipality for infrastructure or other costs generated to
23 the receiving municipality by the development. Appropriations
24 shall be made and paid directly to the receiving municipality or
25 municipalities or to the agency or other governmental entity
26 designated by the council, as the case may be.

27 g. The council shall require receiving municipalities to file
28 annual reports with the agency setting forth the progress in
29 implementing a project funded under a **【regional contribution】**
30 workforce housing transfer agreement, and the agency shall provide
31 the council with its evaluation of each report. The council shall
32 take such actions as may be necessary to enforce a **【regional**
33 **contribution】** workforce housing transfer agreement with respect to
34 the timely implementation of the project by the receiving
35 municipality.

36 **【No consideration shall be given to any regional contribution**
37 **agreement for which the council did not complete its review and**
38 **grant approval prior to the effective date of P.L.2008,**
39 **c.46 (C.52:27D-329.1 et al.). On or after the effective date of**
40 **P.L.2008, c.46 (C.52:27D-329.1 et al.), no regional contribution**
41 **agreement shall be entered into by a municipality, or approved by**
42 **the council or the court.】**

43 h. A workforce housing transfer agreement shall not transfer
44 any portion of a municipality's fair share obligation that is
45 attributable to low income housing. Following the effective date of
46 P.L. , c. (C.) (pending before the Legislature as this bill),
47 two municipalities may enter into a workforce housing transfer

1 agreement to transfer to the receiving municipality a portion of the
2 sending municipality's fair share obligation that is attributable to
3 moderate income housing, as follows:

4 (1) A workforce housing transfer agreement shall decrease the
5 moderate income housing share of the sending municipality in
6 proportion to the number of units transferred pursuant to the
7 agreement. The moderate income housing share of the sending
8 municipality shall equal zero percent if the municipality transfers
9 50 percent of its fair share obligation. The affordability average of
10 price-restricted units in a new development in the sending
11 municipality shall be adjusted to a lower percentage of median
12 income, by household size for the applicable county, in proportion
13 to the number of moderate income units that were transferred as a
14 result of the workforce housing transfer agreement;

15 (2) A workforce housing transfer agreement shall increase the
16 moderate income housing share of the receiving municipality in
17 proportion to the number of units accepted pursuant to the
18 agreement. The affordability average of price-restricted units in a
19 new development in the receiving municipality shall be adjusted to
20 a higher percentage of median income, by household size for the
21 applicable county, in proportion to the number of moderate income
22 units that were added as a result of the workforce housing transfer
23 agreement; and

24 (3) A workforce housing transfer agreement shall only be
25 approved if the sending municipality provides the receiving
26 municipality funds in an amount not less than the amount of funds
27 necessary to defray the costs of construction associated with
28 fulfilling the moderate income housing obligations, transferred
29 pursuant to the agreement, if the construction occurred within the
30 sending municipality.

31 (cf: P.L.2008, c.46, s.16)

32
33 8. Section 14 of P.L.1985, c.222 (C.52:27D-314) is amended to
34 read as follows:

35 14. Unless an objection to the substantive certification is filed
36 with the council by any person within 45 days of the publication of
37 the notice of the municipality's petition, the council shall review the
38 petition and shall issue a substantive certification if it shall find
39 that:

40 a. The municipality's fair share plan is consistent with the rules
41 and criteria adopted by the council and not inconsistent with
42 achievement of the low and moderate income housing needs of the
43 region as adjusted pursuant to the council's criteria and guidelines
44 adopted pursuant to subsection c. of section 7 of **[this act]**
45 P.L.1985, c.222 (C.52:27D-307); and

46 b. The combination of the elimination of unnecessary housing
47 cost-generating features from the municipal land use ordinances and
48 regulations, and the affirmative measures in the housing element

1 and implementation plan make the achievement of the
2 municipality's fair share of low and moderate income housing
3 realistically possible after allowing for the implementation of any
4 regional contribution or workforce housing transfer agreement
5 approved by the council.

6 In conducting its review, the council may meet with the
7 municipality and may deny the petition or condition its certification
8 upon changes in the element or ordinances. Any denial or
9 conditions for approval shall be in writing and shall set forth the
10 reasons for the denial or conditions. If, within 60 days of the
11 council's denial or conditional approval, the municipality refiles its
12 petition with changes satisfactory to the council, the council shall
13 issue a substantive certification.

14 Once substantive certification is granted, the municipality shall
15 have 45 days in which to adopt its fair share housing ordinance
16 approved by the council.

17 (cf: P.L.1985, c.222, s.14)

18
19 9. Section 17 of P.L.1985, c.222 (C.52:27D-317) is amended to
20 read as follows:

21 17. a. In any exclusionary zoning case filed against a
22 municipality which has a substantive certification and in which
23 there is a requirement to exhaust the review and mediation process
24 pursuant to section 16 of **[this act]** P.L.1985, c.222 (C.52:27D-
25 316), there shall be a presumption of validity attaching to the
26 housing element and ordinances implementing the housing element.
27 To rebut the presumption of validity, the complainant shall have the
28 burden of proof to demonstrate by clear and convincing evidence
29 that the housing element and ordinances implementing the housing
30 element do not provide a realistic opportunity for the provision of
31 the municipality's fair share of low and moderate income housing
32 after allowing for the implementation of any **[regional**
33 **contribution]** workforce housing transfer agreement approved by
34 the council.

35 b. There shall be a presumption of validity attaching to any
36 regional contribution or workforce housing transfer agreement
37 approved by the council. To rebut the presumption of validity, the
38 complainant shall have the burden of proof to demonstrate by clear
39 and convincing evidence that the agreement does not provide for a
40 realistic opportunity for the provision of low and moderate income
41 housing within the housing region. A workforce housing transfer
42 agreement shall not be construed as invalid due to a resulting
43 decrease in the fair share obligation of the housing region in which
44 a sending municipality is located.

45 c. The council shall be made a party to any exclusionary
46 zoning suit against a municipality which receives substantive
47 certification, and shall be empowered to present to the court its

1 reasons for granting substantive certification.
2 (cf: P.L.1985, c.222, s.17)

3

4 10. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to
5 read as follows:

6 20. There is established in the Department of Community
7 Affairs a separate trust fund, to be used for the exclusive purposes
8 as provided in this section, and which shall be known as the "New
9 Jersey Affordable Housing Trust Fund." The fund shall be a non-
10 lapsing, revolving trust fund, and all monies deposited or received
11 for purposes of the fund shall be accounted for separately, by source
12 and amount, and remain in the fund until appropriated for such
13 purposes. The fund shall be the repository of all State funds
14 appropriated for affordable housing purposes, including, but not
15 limited to, the proceeds from the receipts of the additional fee
16 collected pursuant to paragraph (2) of subsection a. of section 3 of
17 P.L.1968, c.49 (C.46:15-7), proceeds from available receipts of the
18 Statewide non-residential development fees collected pursuant to
19 section 35 of P.L.2008, c.46 (C.40:55D-8.4), monies lapsing or
20 reverting from municipal development trust funds, or other monies
21 as may be dedicated, earmarked, or appropriated by the Legislature
22 for the purposes of the fund. All references in any law, order, rule,
23 regulation, contract, loan, document, or otherwise, to the
24 "Neighborhood Preservation Nonlapsing Revolving Fund" shall
25 mean the "New Jersey Affordable Housing Trust Fund." The
26 department shall be permitted to utilize annually up to 7.5 percent
27 of the monies available in the fund for the payment of any
28 necessary administrative costs related to the administration of the
29 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), or any
30 costs related to administration of P.L.2008, c.46 (C.52:27D-329.1 et
31 al.).

32 a. Except as permitted pursuant to subsection g. of this section,
33 and by section 41 of P.L.2009, c.90 (C.52:27D-320.1), the
34 commissioner shall award grants or loans from this fund for
35 housing projects and programs in municipalities whose housing
36 elements have received substantive certification from the council, in
37 municipalities receiving State aid pursuant to P.L.1978, c.14
38 (C.52:27D-178 et seq.), in municipalities subject to a builder's
39 remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328),
40 or in receiving municipalities in cases where the council has
41 approved a regional contribution or workforce housing transfer
42 agreement and a project plan developed by the receiving
43 municipality.

44 Of those monies deposited into the "New Jersey Affordable
45 Housing Trust Fund" that are derived from municipal development
46 fee trust funds, or from available collections of Statewide non-
47 residential development fees, a priority for funding shall be
48 established for projects in municipalities that have petitioned the

1 council for substantive certification. Of those monies deposited
2 into the "New Jersey Affordable Housing Trust Fund" that are
3 derived from the receipts of the additional fee collected pursuant to
4 paragraph (2) of subsection a. of section 3 of P.L.1968, c.49
5 (C.46:15-7), a priority for funding shall be established for projects
6 in municipalities for which the moderate income housing obligation
7 is increased pursuant to a workforce housing transfer agreement, as
8 set forth in section 12 of P.L.1985, c.222 (C.52:27D-312).

9 Programs and projects in any municipality shall be funded only
10 after receipt by the commissioner of a written statement in support
11 of the program or project from the municipal governing body.

12 b. The commissioner shall establish rules and regulations
13 governing the qualifications of applicants, the application
14 procedures, and the criteria for awarding grants and loans and the
15 standards for establishing the amount, terms, and conditions of each
16 grant or loan.

17 c. For any period which the council may approve, the
18 commissioner may assist affordable housing programs which are
19 not located in municipalities whose housing elements have been
20 granted substantive certification or which are not in furtherance of a
21 regional contribution or workforce housing transfer agreement;
22 provided that the affordable housing program will meet all or part
23 of a municipal low and moderate income housing obligation.

24 d. Amounts deposited in the "New Jersey Affordable Housing
25 Trust Fund" shall be targeted to regions based on the region's
26 percentage of the State's low and moderate income housing need as
27 determined by the council. Amounts in the fund shall be applied for
28 the following purposes in designated neighborhoods:

29 (1) Rehabilitation of substandard housing units occupied or to
30 be occupied by low and moderate income households;

31 (2) Creation of accessory apartments to be occupied by low and
32 moderate income households;

33 (3) Conversion of non-residential space to residential purposes;
34 provided a substantial percentage of the resulting housing units are
35 to be occupied by low and moderate income households;

36 (4) Acquisition of real property, demolition and removal of
37 buildings, or construction of new housing that will be occupied by
38 low and moderate income households, or any combination thereof;

39 (5) Grants of assistance to eligible municipalities for costs of
40 necessary studies, surveys, plans, and permits; engineering,
41 architectural, and other technical services; costs of land acquisition
42 and any buildings thereon; and costs of site preparation, demolition,
43 and infrastructure development for projects undertaken pursuant to
44 an approved regional contribution or workforce housing transfer
45 agreement;

46 (6) Assistance to a local housing authority, nonprofit or limited
47 dividend housing corporation, or association or a qualified entity
48 acting as a receiver under P.L.2003, c.295 (C.2A:42-114 et al.) for

1 rehabilitation or restoration of housing units which it administers
2 which: (a) are unusable or in a serious state of disrepair; (b) can be
3 restored in an economically feasible and sound manner; and (c) can
4 be retained in a safe, decent, and sanitary manner, upon completion
5 of rehabilitation or restoration; and

6 (7) Other housing programs for low and moderate income
7 housing, including, without limitation, (a) infrastructure projects
8 directly facilitating the construction of low and moderate income
9 housing not to exceed a reasonable percentage of the construction
10 costs of the low and moderate income housing to be provided and
11 (b) alteration of dwelling units occupied or to be occupied by
12 households of low or moderate income and the common areas of the
13 premises in which they are located in order to make them accessible
14 to persons with disabilities.

15 e. Any grant or loan agreement entered into pursuant to this
16 section shall incorporate contractual guarantees and procedures by
17 which the division will ensure that any unit of housing provided for
18 low and moderate income households shall continue to be occupied
19 by low and moderate income households for at least 20 years
20 following the award of the loan or grant, except that the division
21 may approve a guarantee for a period of less than 20 years where
22 necessary to ensure project feasibility.

23 f. Notwithstanding the provisions of any other law, rule, or
24 regulation to the contrary, in making grants or loans under this
25 section, the department shall not require that tenants be certified as
26 low or moderate income or that contractual guarantees or deed
27 restrictions be in place to ensure continued low and moderate
28 income occupancy as a condition of providing housing assistance
29 from any program administered by the department, when that
30 assistance is provided for a project of moderate rehabilitation if the
31 project: (1) contains 30 or fewer rental units; and (2) is located in a
32 census tract in which the median household income is 60 percent or
33 less of the median income for the housing region in which the
34 census tract is located, as determined for a three person household
35 by the council in accordance with the latest federal decennial
36 census. A list of eligible census tracts shall be maintained by the
37 department and shall be adjusted upon publication of median
38 income figures by census tract after each federal decennial census.

39 g. In addition to other grants or loans awarded pursuant to this
40 section, and without regard to any limitations on such grants or
41 loans for any other purposes herein imposed, the commissioner
42 shall annually allocate such amounts as may be necessary in the
43 commissioner's discretion, and in accordance with section 3 of
44 P.L.2004, c.140 (C.52:27D-287.3), to fund rental assistance grants
45 under the program created pursuant to P.L.2004, c.140 (C.52:27D-
46 287.1 et al.). Such rental assistance grants shall be deemed
47 necessary and authorized pursuant to P.L.1985, c.222 (C.52:27D-
48 301 et al.), in order to meet the housing needs of certain low income

1 households who may not be eligible to occupy other housing
2 produced pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).

3 h. The department and the State Treasurer shall submit the
4 "New Jersey Affordable Housing Trust Fund" for an audit annually
5 by the State Auditor or State Comptroller, at the discretion of the
6 Treasurer. In addition, the department shall prepare an annual
7 report for each fiscal year, and submit it by November 30th of each
8 year to the Governor and the Legislature, and the Joint Committee
9 on Housing Affordability, or its successor, and post the information
10 to its web site, of all activity of the fund, including details of the
11 grants and loans by number of units, number and income ranges of
12 recipients of grants or loans, location of the housing renovated or
13 constructed using monies from the fund, the number of units upon
14 which affordability controls were placed, and the length of those
15 controls. The report also shall include details pertaining to those
16 monies allocated from the fund for use by the State rental assistance
17 program pursuant to section 3 of P.L.2004, c.140 (C.52:27D-287.3)
18 and subsection g. of this section.

19 i. The commissioner may award or grant the amount of any
20 appropriation deposited in the "New Jersey Affordable Housing
21 Trust Fund" pursuant to section 41 of P.L.2009, c.90 (C.52:27D-
22 320.1) to municipalities pursuant to the provisions of section 39 of
23 P.L.2009, c.90 (C.40:55D-8.8).
24 (cf: P.L.2017, c.131, s.200)
25

26 11. Section 21 of P.L.1985, c.222 (C.52:27D-321) is amended to
27 read as follows:

28 21. The agency shall establish affordable housing programs to
29 assist municipalities in meeting the obligation of developing
30 communities to provide low and moderate income housing.

31 a. Of the bond authority allocated to it under section 24 of
32 P.L.1983, c.530 (C.55:14K-24) the agency will allocate, for a
33 reasonable period of time established by its board, no less than
34 **【25%】** 25 percent to be used in conjunction with housing to be
35 constructed or rehabilitated with assistance under **【this act】**
36 P.L.1985, c.222 (C.52:27D-301 et al.).

37 b. The agency shall to the extent of available funds, award
38 assistance to affordable housing programs located in municipalities
39 whose housing elements have received substantive certification
40 from the council, or which have been subject to a builder's remedy
41 or which are in furtherance of a regional contribution or workforce
42 housing transfer agreement approved by the council. During the
43 first 12 months from the effective date of **【this act】** P.L.1985, c.222
44 (C.52:27D-301 et al.) and for any additional period which the
45 council may approve, the agency may assist affordable housing
46 programs which are not located in municipalities whose housing
47 elements have been granted substantive certification or which are
48 not in furtherance of a regional contribution or workforce housing

1 transfer agreement; provided the affordable housing program will
2 meet all or in part a municipal low and moderate income housing
3 obligation.

4 c. Assistance provided pursuant to this section may take the
5 form of grants or awards to municipalities, prospective home
6 purchasers, housing sponsors as defined in P.L.1983, c.530
7 (C.55:14K-1 et seq.), or as contributions to the issuance of
8 mortgage revenue bonds or multi-family housing development
9 bonds which have the effect of achieving the goal of producing
10 affordable housing.

11 d. Affordable housing programs which may be financed or
12 assisted under this provision may include, but are not limited to:

13 (1) Assistance for home purchase and improvement including
14 interest rate assistance, down payment and closing cost assistance,
15 and direct grants for principal reduction;

16 (2) Rental programs including loans or grants for developments
17 containing low and moderate income housing, moderate
18 rehabilitation of existing rental housing, congregate care and
19 retirement facilities;

20 (3) Financial assistance for the conversion of nonresidential
21 space to residences;

22 (4) Other housing programs for low and moderate income
23 housing, including infrastructure projects directly facilitating the
24 construction of low and moderate income housing; and

25 (5) Grants or loans to municipalities, housing sponsors and
26 community organizations to encourage development of innovative
27 approaches to affordable housing, including:

28 (a) Such advisory, consultative, training and educational
29 services as will assist in the planning, construction, rehabilitation
30 and operation of housing; and

31 (b) Encouraging research in and demonstration projects to
32 develop new and better techniques and methods for increasing the
33 supply, types and financing of housing and housing projects in the
34 State.

35 e. The agency shall establish procedures and guidelines
36 governing the qualifications of applicants, the application
37 procedures and the criteria for awarding grants and loans for
38 affordable housing programs and the standards for establishing the
39 amount, terms and conditions of each grant or loan. When
40 awarding grants or loans for affordable housing programs, the
41 agency shall give preference to those programs situated in
42 municipalities for which the moderate income housing obligation is
43 increased pursuant to a workforce housing transfer agreement, as
44 set forth in section 12 of P.L.1985, c.222 (C.52:27D-312).

45 f. In consultation with the council, the agency shall establish
46 requirements and controls to insure the maintenance of housing
47 assisted under **[this act]** P.L.1985, c.222 (C.52:27D-301 et al.) as
48 affordable to low and moderate income households for a period of

1 not less than 20 years; provided that the agency may establish a
2 shorter period upon a determination that the economic feasibility of
3 the program is jeopardized by the requirement and the public
4 purpose served by the program outweighs the shorter period. The
5 controls may include, among others, requirements for recapture of
6 assistance provided pursuant to **【this act】** P.L.1985, c.222
7 (C.52:27D-301 et al.) or restrictions on return on equity in the event
8 of failure to meet the requirements of the program. With respect to
9 rental housing financed by the agency pursuant to **【this act】**
10 P.L.1985, c.222 (C.52:27D-301 et al.) or otherwise which promotes
11 the provision or maintenance of low and moderate income housing,
12 the agency may waive restrictions on return on equity required
13 pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.) which is gained
14 through the sale of the property or of any interest in the property or
15 sale of any interest in the housing sponsor.

16 g. The agency may establish affordable housing programs
17 through the use or establishment of subsidiary corporations or
18 development corporations as provided in P.L.1983, c.530
19 (C.55:14K-1 et seq.). The subsidiary corporations or development
20 corporations shall be eligible to receive funds provided under **【this**
21 **act】** P.L.1985, c.222 (C.52:27D-301 et al.) for any permitted
22 purpose.

23 h. The agency shall provide assistance, through its bonding
24 powers or in any other manner within its powers, to the grant and
25 loan program established pursuant to section 20 of P.L.1985, c.222
26 (C.52:27D-320).

27 (cf: P.L.2004, c.140, s.5)

28

29 12. Section 12 of P.L.2008, c.46 (C.52:27D-329.6) is amended
30 to read as follows:

31 12. The Legislature finds and declares that:

32 a. The transfer of a portion of the fair share obligations among
33 municipalities has proven to not be a viable method of ensuring that
34 an adequate supply and variety of low and very low income housing
35 choices are provided in municipalities experiencing growth.
36 Therefore, although a workforce housing transfer agreement shall
37 be available pursuant to P.L. , c. (C.) (pending before the
38 Legislature as this bill), as a mechanism for the transfer of a
39 municipality's moderate income housing share, the use of a regional
40 contribution agreement shall no longer be permitted **【under】**
41 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).

42 b. **【Although the elimination of the regional contribution**
43 **agreement as a tool for the production of affordable housing**
44 **pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), will impact on**
45 **some proposed agreements awaiting approval, it is for a public**
46 **purpose and for the public good that such contracts be declared void**
47 **for the current and future housing obligation rounds.】** (Deleted by

1 amendment, P.L. , c.) (pending before the Legislature as this
2 bill)

3 c. There is a need to assist municipalities in the rehabilitation
4 of housing for occupancy by low and moderate income households.
5 To this end, a specific program for housing rehabilitation by
6 municipalities would best serve this need. It is the intent of the
7 Legislature that this program, as well as funds earmarked for the
8 purposes of the program, will be utilized, especially in urban areas
9 which were the main recipients of regional contribution agreements,
10 to continue to upgrade housing stock in order to provide a wide
11 variety and choice of housing for persons living in those areas.

12 d. There is also a need to provide funding to municipalities to
13 create additional incentives and assistance for the production of
14 safe, decent, and affordable rental and other housing.
15 (cf: P.L.2008, c.46, s.12)

16

17 13. Section 5 of P.L.2009, c.53 (C.17:11C-55) is amended to
18 read as follows:

19 5. The requirements of this act shall not apply to:

20 a. Depository institutions; but subsidiaries and service
21 corporations of these institutions shall not be exempt. A depository
22 institution may register with the department for the purpose of
23 sponsoring individuals, licensed as mortgage loan originators
24 subject to subparagraph (b) of paragraph (1) of subsection c. of
25 section 4 of P.L.2009, c.53 (C.17:11C-54), provided that such
26 registered entity obtains and maintains bond coverage for mortgage
27 loan originators consistent with section 13 of P.L.2009, c.53
28 (C.17:11C-63). A depository institution registered with the
29 department in accordance with this subsection a. shall otherwise
30 remain exempt from the licensing requirements of P.L.2009, c.53
31 (C.17:11C-51 et seq.).

32 b. A registered mortgage loan originator that is registered
33 under the federal "Secure and Fair Enforcement for Mortgage
34 Licensing Act of 2008," title V of Pub.L.110-289 (12 U.S.C. s.5101
35 et seq.).

36 c. A licensed attorney who negotiates the terms of a residential
37 mortgage loan on behalf of a client as an ancillary matter to the
38 attorney's representation of the client, unless the attorney is
39 compensated by a residential mortgage lender, residential mortgage
40 broker, or mortgage loan originator.

41 d. A person licensed as a real estate broker or salesperson
42 pursuant to R.S.45:15-1 et seq., and not engaged in the business of a
43 residential mortgage lender or residential mortgage broker. Any
44 person holding a license under this act as a residential mortgage
45 lender or broker shall be exempt from the licensing and other
46 requirements of R.S.45:15-1 et seq. in the performance of those
47 functions authorized by this act.

1 e. Any employer, other than a residential mortgage lender, who
2 provides residential mortgage loans to his employees as a benefit of
3 employment which are at an interest rate which is not in excess of
4 the usury rate in existence at the time the loan is made, as
5 established in accordance with the law of this State, and on which
6 the borrower has not agreed to pay, directly or indirectly, any
7 charge, cost, expense or any fee whatsoever, other than that interest.

8 f. The State of New Jersey or a municipality, or any agency or
9 instrumentality thereof, which, in accordance with a housing
10 element that has received substantive certification from the Council
11 on Affordable Housing pursuant to the "Fair Housing Act,"
12 P.L.1985, c.222 (C.52:27D-301 et al.), or in fulfillment of a
13 regional contribution or workforce housing transfer agreement with
14 a municipality that has received a certification, employs or proposes
15 to employ municipally generated funds, funds obtained through any
16 State or federal subsidy, or funds acquired by the municipality
17 under a regional contribution or workforce housing transfer
18 agreement, to finance the provision of affordable housing by
19 extending loans or advances, the repayment of which is secured by
20 a lien, subordinate to any prior lien, upon the property that is to be
21 rehabilitated.

22 g. Any individual who offers or negotiates terms of a
23 residential mortgage loan:

24 (1) with or on behalf of an immediate family member; or

25 (2) secured by a dwelling that serves as the individual's
26 residence.

27 h. Any person who, during a calendar year takes three or fewer
28 residential mortgage loan applications or offers or negotiates the
29 terms of three or fewer residential mortgage loans or makes three or
30 fewer residential mortgage loans related to manufactured housing
31 structures which are:

32 (1) titled by the New Jersey Motor Vehicle Commission;

33 (2) located in a mobile home park as defined in subsection e. of
34 section 3 of P.L.1983, c.400 (C.54:4-1.4); and

35 (3) exempt from taxation as real property pursuant to subsection
36 b. of section 4 of P.L.1983, c.400 (C.54:4-1.5).

37 i. A bona fide not for profit entity and any individuals directly
38 employed by that entity, so long as the entity maintains its tax
39 exempt status under Section 501(c)(3) of the Internal Revenue Code
40 of 1986 and otherwise meets the definition of "bona fide not for
41 profit entity" in section 3 of P.L.2009, c.53 (C.17:11C-53), as
42 periodically determined by the department in accordance with rules
43 established by the commissioner.

44 (cf: P.L.2018, c.108, s.3)

45
46 14. Section 9 of P.L.2000, c.72 (C.18A:7G-9) is amended to
47 read as follows:

1 9. a. State debt service aid for capital investment in school
2 facilities for a district other than an SDA district which elects not to
3 finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-
4 15), shall be distributed upon a determination of preliminary
5 eligible costs by the commissioner, according to the following
6 formula:

7 Aid is the sum of A for each issuance of school bonds issued for
8 a school facilities project approved by the commissioner after the
9 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.)

10 where

11 $A = B \times AC/P \times DAP \times M$, with $AC/P = 1$

12 whenever AC/P would otherwise yield a number greater than one,
13 and where:

14 B is the district's debt service for the individual issuance for the
15 fiscal year;

16 AC is the preliminary eligible costs determined pursuant to
17 section 7 of P.L.2000, c.72 (C.18A:7G-7);

18 P is the principal of the individual issuance plus any other
19 funding sources approved for the school facilities project;

20 DAP is the district's district aid percentage as defined pursuant to
21 section 3 of P.L.2000, c.72 (C.18A:7G-3) and where DAP shall not
22 be less than 40%; and

23 M is a factor representing the degree to which a district has
24 fulfilled maintenance requirements for a school facilities project
25 determined pursuant to subsection b. of this section.

26 For county special services school districts, DAP shall be that of
27 the county vocational school district in the same county.

28 Notwithstanding the provisions of this subsection to the contrary,
29 DAP for a county vocational school district school facilities project
30 that is approved by the commissioner following the effective date of
31 P.L.2009, c.185 shall equal the greater of the district's district aid
32 percentage as defined pursuant to section 3 of P.L.2000, c.72
33 (C.18A:7G-3) or the percentage of the students in the county
34 vocational school district's resident enrollment who reside in SDA
35 districts; except that DAP shall not be less than 40% or greater than
36 90%.

37 Notwithstanding the provisions of this subsection to the contrary,
38 DAP for a district school facilities project that is approved by the
39 commissioner following the effective date of P.L. , c. (C.)
40 (pending before the Legislature as this bill), and that is located
41 within a school district that contains a municipality for which the
42 moderate income housing obligation is increased pursuant to a
43 workforce housing transfer agreement, as set forth in section 12 of
44 P.L.1985, c.222 (C.52:27D-312), shall be increased by not less than
45 10% and not more than 30%, as determined by the commissioner
46 based on the extent to which the agreement necessitated the district
47 school facilities project, except that the DAP shall not be greater
48 than 90%.

1 b. The maintenance factor (M) shall be 1.0 except when one of
2 the following conditions applies, in which case the maintenance
3 factor shall be as specified:

4 (1) Effective ten years from the date of the enactment of
5 P.L.2000, c.72 (C.18A:7G-1 et al.), the maintenance factor for aid
6 for reconstruction, remodeling, alteration, modernization,
7 renovation or repair, or for an addition to a school facility, shall be
8 zero for all school facilities projects for which the district fails to
9 demonstrate over the ten years preceding issuance a net investment
10 in maintenance of the related school facility of at least 2% of the
11 replacement cost of the school facility, determined pursuant to
12 subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7) using the
13 area cost allowance of the year ten years preceding the year in
14 which the school bonds are issued.

15 (2) For new construction, additions, and school facilities aided
16 under subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7)
17 supported by financing issued for projects approved by the
18 commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-
19 1 et al.), beginning in the fourth year after occupancy of the school
20 facility, the maintenance factor shall be reduced according to the
21 following schedule for all school facilities projects for which the
22 district fails to demonstrate in the prior fiscal year an investment in
23 maintenance of the related school facility of at least two-tenths of
24 1% of the replacement cost of the school facility, determined
25 pursuant to subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-
26 7).

Maintenance Percentage	Maintenance Factor (M)
.199% - .151%	75%
.150% - .100%	50%
Less than .100%	Zero

31 (3) Within one year of the enactment of P.L.2000, c.72
32 (C.18A:7G-1 et al.), the commissioner shall promulgate rules
33 requiring districts to develop a long-range maintenance plan and
34 specifying the expenditures that qualify as an appropriate
35 investment in maintenance for the purposes of this subsection.

36 c. Any district which obtained approval from the commissioner
37 since September 1, 1998 and prior to the effective date of P.L.2000,
38 c.72 (C.18A:7G-1 et al.) of the educational specifications for a
39 school facilities project or obtained approval from the Department
40 of Community Affairs or the appropriately licensed municipal code
41 official since September 1, 1998 of the final construction plans and
42 specifications, and the district has issued debt, may elect to have the
43 final eligible costs of the project determined pursuant to section 5 of
44 P.L.2000, c.72 (C.18A:7G-5) and to receive debt service aid under
45 this section or under section 10 of P.L.2000, c.72 (C.18A:7G-10).

46 Any district which received approval from the commissioner for
47 a school facilities project at any time prior to the effective date of
48 P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other

1 than short term notes, may submit an application pursuant to section
2 5 of P.L.2000, c.72 (C.18A:7G-5) to have the final eligible costs of
3 the project determined pursuant to that section and to have the New
4 Jersey Economic Development Authority construct the project; or,
5 at its discretion, the district may choose to receive debt service aid
6 under this section or under section 10 of P.L.2000, c.72 (C.18A:7G-
7 10) or to receive a grant under section 15 of P.L.2000, c.72
8 (C.18A:7G-15).

9 For the purposes of this subsection, the "issuance of debt" shall
10 include lease purchase agreements in excess of five years.

11 d. For school bonds issued for a school facilities project after
12 the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) and prior to
13 the effective date of P.L.2008, c.39 (C.18A:7G-14.1 et al.), State
14 debt service aid shall be calculated in accordance with the
15 provisions of this section as the same read before the effective date
16 of P.L.2008, c.39 (C.18A:7G-14.1 et al.).

17 (cf: P.L.2009, c.185, s.2)

18
19 15. Section 25 of P.L.1984, c.73 (C.27:1B-25) is amended to
20 read as follows:

21 25. a. Notwithstanding the provisions of subtitle 4 of Title 27
22 of the Revised Statutes and P.L.1946, c.301 (C.27:15A-1 et seq.),
23 the commissioner may, pursuant to appropriations or authorizations
24 being made from time to time by the Legislature according to law,
25 allocate to counties and municipalities funds for the planning,
26 acquisition, engineering, construction, reconstruction, repair,
27 resurfacing and rehabilitation of public highways and the planning,
28 acquisition, engineering, construction, reconstruction, repair,
29 maintenance and rehabilitation of public transportation projects and
30 of other transportation projects which a county or municipality may
31 be authorized by law to undertake.

32 b. The commissioner shall, pursuant to appropriations or
33 authorizations being made from time to time by the Legislature
34 according to law, allocate at his discretion State aid to counties and
35 municipalities for transportation projects, except that the amount to
36 be appropriated for this program shall be seven percent of the total
37 amount appropriated pursuant to subsection d. of this section. This
38 State aid shall be set aside prior to any formula allocations provided
39 for in subsections c., d., e., f., and g. of this section, and shall be
40 known as the "Local Aid Infrastructure Fund." In the fiscal year
41 commencing July 1, 2016, any amount appropriated to the Local
42 Aid Infrastructure Fund above \$7,500,000 shall be deposited into
43 the State Transportation Infrastructure Bank Fund, established
44 pursuant to section 34 of P.L.2016, c.56 (C.58:11B-10.4).

45 c. The commissioner shall, pursuant to appropriations or
46 authorizations being made from time to time by the Legislature
47 according to law and pursuant to the provisions of subsections b.
48 and d. of this section, allocate State aid to municipalities for public

highways under their jurisdiction. The amount to be appropriated shall be allocated on the basis of the following distribution factor:

$$DF = \frac{P_c}{P_s} + \frac{C_m}{S_m}$$

where, DF equals the distribution factor

P_c equals county population

P_s equals State population

C_m equals municipal road mileage within the county

S_m equals municipal road mileage within the State.

After the amount of aid has been allocated based on the above formula, the commissioner shall determine priority for the funding of municipal projects within each county, based upon criteria relating to volume of traffic, safety considerations, growth potential, readiness to obligate funds, and local taxing capacity; provided, however, that municipal projects located in municipalities for which the moderate income housing obligation is increased pursuant to a workforce housing transfer agreement, as set forth in section 12 of P.L.1985, c.222 (C.52:27D-312), shall also receive priority for funding. In addition to the above criteria used in determining priority of funding of municipal projects in each county, the commissioner shall consider whether a project is intended to remedy hazardous conditions as identified for the purposes of providing transportation pursuant to N.J.S.18A:39-1.2 for school pupils or to improve pedestrian safety.

For the purposes of this subsection, (1) "population" means the official population count as reported by the New Jersey Department of Labor and Workforce Development; and (2) "municipal road mileage" means that road mileage under the jurisdiction of municipalities, as determined by the department.

d. There shall be appropriated at least \$175,000,000 for each fiscal year commencing July 1, 2006 through the fiscal year commencing July 1, 2015, and \$400,000,000 for each fiscal year commencing July 1, 2016 and for each fiscal year thereafter, for the purposes provided herein and in subsections b., c., e., f., and g. of this section. (1) Of that appropriation, the commissioner shall allocate 37.5 percent of the total appropriation as State aid for municipalities pursuant to the provisions of subsection c. of this section, provided that \$5,000,000 for each fiscal year commencing July 1, 2006 through the fiscal year commencing July 1, 2015, and \$10,000,000 for each fiscal year commencing July 1, 2016 and for each fiscal year thereafter of the amount allocated as State aid for municipalities shall be set aside and sub-allocated as State aid to any municipality qualifying for aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.). The commissioner shall allocate the aid to each municipality in the same proportion that the municipality receives aid under P.L.1978, c.14 (C.52:27D-178 et seq.). (2) The commissioner shall allocate 37.5 percent of the total

1 appropriation pursuant to the provisions of subsection e. of this
2 section for the Local County Aid Program. (3) The commissioner
3 shall allocate seven percent of the total appropriation pursuant to
4 the provisions of subsection b. of this section for the "Local Aid
5 Infrastructure Fund." (4) The commissioner shall allocate seven
6 percent of the appropriation pursuant to the provisions of subsection
7 f. of this section for the "Local Freight Impact Fund." (5) The
8 remaining 11 percent of the appropriation shall be allocated
9 pursuant to the provisions of subsection g. of this section for the
10 "Local Bridges Fund."

11 e. The commissioner may, pursuant to appropriations or
12 authorizations being made from time to time by the Legislature
13 according to law, allocate additional funding to the Local County
14 Aid Program for public highway projects, in accordance with a
15 formula similar to that provided for in subsection c. of this section,
16 except that Cm equals road mileage under county jurisdiction and
17 Sm equals total county road mileage within the State.

18 f. The commissioner shall, pursuant to appropriations or
19 authorizations being made from time to time by the Legislature
20 according to law, allocate at the commissioner's discretion, State aid
21 to counties and municipalities for transportation projects that
22 address the impacts of freight travel in local communities and on
23 local transportation infrastructure, except that the amount to be
24 appropriated for this program shall be seven percent of the total
25 amount appropriated pursuant to subsection d. of this section. This
26 State aid shall be set aside prior to any formula allocations provided
27 for in subsections c., d., e., and g. of this section, and shall be
28 known as the "Local Freight Impact Fund."

29 g. The commissioner shall, pursuant to appropriations or
30 authorizations being made from time to time by the Legislature
31 according to law, allocate at the commissioner's discretion, State aid
32 to counties and municipalities for transportation projects that
33 address the condition of bridges under the jurisdiction of counties
34 with an emphasis on repair and reconstruction of those with the
35 greatest structural deficiencies, except that the amount to be
36 appropriated for this program shall be 11 percent of the total
37 amount appropriated pursuant to subsection d. of this section. This
38 State aid shall be set aside prior to any formula allocations provided
39 for in subsections c., d., e., and f. of this section, and shall be
40 known as the "Local Bridges Fund."

41 (cf: P.L.2016, c.56, s.9)

42

43 16. N.J.S.40A:2-3 is amended to read as follows:

44 40A:2-3. Any local unit, by bond ordinance, may incur
45 indebtedness, borrow money, authorize and issue negotiable
46 obligations for financing:

47 a. any capital improvement or property which it may lawfully
48 make or acquire;

1 b. any purpose for which it is authorized or required by law to
2 make an appropriation, except current expenses, as may be defined
3 by rule and regulation of the Local Finance Board, and payment of
4 obligations (other than those for temporary financing); or

5 c. the amount of any contribution by a local unit that is a
6 sending municipality under a regional contribution or workforce
7 housing transfer agreement pursuant to section 12 of P.L.1985,
8 c.222 (C.52:27D-312).

9 No local unit shall borrow money or issue its obligations for
10 purposes authorized under this chapter except as provided in this
11 chapter.

12 (cf: P.L.2007, c.62, s.16)

13

14 17. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to
15 read as follows:

16 3. In the preparation of its budget a municipality shall limit any
17 increase in said budget to 2.5% or the cost-of-living adjustment,
18 whichever is less, over the previous year's final appropriations
19 subject to the following exceptions:

20 a. (Deleted by amendment, P.L.1990, c.89.)

21 b. Capital expenditures, including appropriations for current
22 capital expenditures, whether in the capital improvement fund or as
23 a component of a line item elsewhere in the budget, provided that
24 any such current capital expenditure would be otherwise bondable
25 under the requirements of N.J.S.40A:2-21 and 40A:2-22;

26 c. (1) An increase based upon emergency temporary
27 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
28 situation or event which immediately endangers the health, safety or
29 property of the residents of the municipality, and over which the
30 governing body had no control and for which it could not plan and
31 emergency appropriations made pursuant to N.J.S.40A:4-46.
32 Emergency temporary appropriations and emergency appropriations
33 shall be approved by at least two-thirds of the governing body and
34 by the Director of the Division of Local Government Services, and
35 shall not exceed in the aggregate 3% of the previous year's final
36 current operating appropriations.

37 (2) (Deleted by amendment, P.L.1990, c.89.)

38 The approval procedure in this subsection shall not apply to
39 appropriations adopted for a purpose referred to in subsection d. or
40 j. below;

41 d. All debt service, including that of a Type I school district;

42 e. Upon the approval of the Local Finance Board in the
43 Division of Local Government Services, amounts required for
44 funding a preceding year's deficit;

45 f. Amounts reserved for uncollected taxes;

46 g. (Deleted by amendment, P.L.1990, c.89.)

47 h. Expenditure of amounts derived from new or increased
48 construction, housing, health or fire safety inspection or other

- 1 service fees imposed by State law, rule or regulation or by local
- 2 ordinance;
- 3 i. Any amount approved by any referendum;
- 4 j. Amounts required to be paid pursuant to (1) any contract
- 5 with respect to use, service or provision of any project, facility or
- 6 public improvement for water, sewerage, parking, senior citizen
- 7 housing or any similar purpose, or payments on account of debt
- 8 service therefor, between a municipality and any other municipality,
- 9 county, school or other district, agency, authority, commission,
- 10 instrumentality, public corporation, body corporate and politic or
- 11 political subdivision of this State; (2) the provisions of article 9 of
- 12 P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent
- 13 municipality to the intermunicipal account; (3) any lease of a
- 14 facility owned by a county improvement authority when the lease
- 15 payment represents the proportionate amount necessary to amortize
- 16 the debt incurred by the authority in providing the facility which is
- 17 leased, in whole or in part; and (4) any repayments under a loan
- 18 agreement entered into in accordance with the provisions of section
- 19 5 of P.L.1992, c.89 (C.40:48-2.5b);
- 20 k. (Deleted by amendment, P.L.1987, c.74.)
- 21 l. Appropriations of federal, county, independent authority or
- 22 State funds, or by grants from private parties or nonprofit
- 23 organizations for a specific purpose, and amounts received or to be
- 24 received from such sources in reimbursement for local
- 25 expenditures. If a municipality provides matching funds in order to
- 26 receive the federal, county, independent authority or State funds, or
- 27 the grants from private parties or nonprofit organizations for a
- 28 specific purpose, the amount of the match which is required by law
- 29 or agreement to be provided by the municipality shall be excepted;
- 30 m. (Deleted by amendment, P.L.1987, c.74.)
- 31 n. (Deleted by amendment, P.L.1987, c.74.)
- 32 o. (Deleted by amendment, P.L.1990, c.89.)
- 33 p. (Deleted by amendment, P.L.1987, c.74.)
- 34 q. (Deleted by amendment, P.L.1990, c.89.)
- 35 r. Amounts expended to fund a free public library established
- 36 pursuant to the provisions of R.S.40:54-1 through 40:54-29,
- 37 inclusive;
- 38 s. (Deleted by amendment, P.L.1990, c.89.)
- 39 t. Amounts expended in preparing and implementing a housing
- 40 element and fair share plan pursuant to the provisions of P.L.1985,
- 41 c.222 (C.52:27D-301 et al.) and any amounts received by a
- 42 municipality under a regional contribution or workforce housing
- 43 transfer agreement pursuant to section 12 of **that act** P.L.1985,
- 44 c.222 (C.52:27D-312);
- 45 u. (Deleted by amendment, P.L.2004, c.74.)
- 46 v. (Deleted by amendment, P.L.1990, c.89.)
- 47 w. (Deleted by amendment, P.L.2004, c.74.)

- 1 x. Amounts expended to aid privately owned libraries and
- 2 reading rooms, pursuant to R.S.40:54-35;
- 3 y. (Deleted by amendment, P.L.1990, c.89.)
- 4 z. (Deleted by amendment, P.L.1990, c.89.)
- 5 aa. Extraordinary expenses, approved by the Local Finance
- 6 Board, required for the implementation of an interlocal services
- 7 agreement;
- 8 bb. Any expenditure mandated as a result of a natural disaster,
- 9 civil disturbance or other emergency that is specifically authorized
- 10 pursuant to a declaration of an emergency by the President of the
- 11 United States or by the Governor;
- 12 cc. Expenditures for the cost of services mandated by any order
- 13 of court, by any federal or State statute, or by administrative rule,
- 14 directive, order, or other legally binding device issued by a State
- 15 agency which has identified such cost as mandated expenditures on
- 16 certification to the Local Finance Board by the State agency;
- 17 dd. Expenditures of amounts actually realized in the local
- 18 budget year from the sale of municipal assets in extraordinary cases
- 19 and with the permission of the Local Finance Board;
- 20 ee. Any local unit which is determined to be experiencing fiscal
- 21 distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-
- 22 118.24 et seq.), whether or not a local unit is an "eligible
- 23 municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-
- 24 118.26), and which has available surplus pursuant to the spending
- 25 limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may
- 26 appropriate and expend an amount of that surplus approved by the
- 27 director and the Local Finance Board as an exception to the
- 28 spending limitation. Any determination approving the
- 29 appropriation and expenditure of surplus as an exception to the
- 30 spending limitations shall be based upon:
- 31 1) the local unit's revenue needs for the current local budget
- 32 year and its revenue raising capacity;
- 33 2) the intended actions of the governing body of the local unit
- 34 to meet the local unit's revenue needs;
- 35 3) the intended actions of the governing body of the local unit
- 36 to expand its revenue generating capacity for subsequent local
- 37 budget years;
- 38 4) the local unit's ability to demonstrate the source and
- 39 existence of sufficient surplus as would be prudent to appropriate as
- 40 an exception to the spending limitations to meet the operating
- 41 expenses for the local unit's current budget year; and
- 42 5) the impact of utilization of surplus upon succeeding budgets
- 43 of the local unit;
- 44 ff. Newly authorized operating appropriations for the municipal
- 45 court or violation's bureau when approved by the vicinage Presiding
- 46 Judge of the Municipal Court after consultation with the mayor and
- 47 governing body of the municipality;
- 48 gg. (Deleted by amendment, P.L.2004, c.74.)

1 hh. (Deleted by amendment, P.L.2004, c.74.)

2 ii. Subject to the approval of the Local Finance Board,
3 expenditures related to the cost of conducting and implementing a
4 total property tax levy sale pursuant to section 16 of P.L.1997, c.99
5 (C.54:5-113.5);

6 jj. Amounts expended for a length of service award program
7 pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);

8 kk. Amounts expended to provide municipal services or
9 reimbursement amounts to multifamily dwellings for the collection
10 and disposal of solid waste generated by the residents of the
11 multifamily dwellings. This subsection shall cease to be operative
12 at the end of the first local budget year in which the municipality
13 has fully phased in its reimbursement amount expenses;

14 ll. Amounts expended by a municipality under an interlocal
15 services agreement entered into pursuant to the "Interlocal Services
16 Act," P.L.1973, c.208 (C.40:8A-1 et al.) entered into after the
17 effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The
18 governing body of the municipality that will receive the service
19 may choose to allow the amount of projected annual savings to be
20 added to the amount of final appropriations upon which its
21 permissible expenditures are calculated pursuant to section 2 of
22 P.L.1976, c.68 (C.40A:4-45.2);

23 mm. Amounts expended under a joint contract pursuant to the
24 "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1
25 et seq.) entered into after the effective date of P.L.2000, c.126
26 (C.52:13H-21 et al.). The governing body of each participating
27 municipality may choose to allow the amount of projected annual
28 savings to be added to the amount of final appropriations upon
29 which its permissible expenditures are calculated pursuant to
30 section 2 of P.L.1976, c.68 (C.40A:4-45.2);

31 nn. (Deleted by amendment, P.L.2004, c.74.)

32 oo. Amounts appropriated in the first three years after the
33 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability
34 insurance, workers' compensation insurance and employee group
35 insurance;

36 pp. Amounts appropriated in the first three years after the
37 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of
38 domestic security preparedness and responses to incidents and
39 threats to domestic security;

40 qq. Amounts required to be paid by a municipality pursuant to
41 the provisions of section 4 of P.L.2007, c.311 (C.13:1E-96.5).

42 In the first full year when an existing appropriation or
43 expenditure that is subject to budget limitations is made an
44 exception to budget limitations, a municipality shall deduct from its
45 final appropriations upon which its permissible expenditures are
46 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
47 the amount which the municipality expended for that purpose
48 during the last full budget year, or portion thereof, in which the

1 purpose so excepted was funded from appropriations in the
2 municipal budget.

3 In the first full year when an existing appropriation or
4 expenditure that is not subject to budget limitations is made subject
5 to budget limitations, a municipality shall add to its final
6 appropriations upon which its permissible expenditures are
7 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
8 the amount which the municipality expended for that purpose
9 during the last full budget year, or portion thereof, in which the
10 purpose so excepted was funded from appropriations in the
11 municipal budget.

12 (cf: P.L.2007, c.311, s.17)

13

14 18. This act shall take effect on the first day of the sixth month
15 next following enactment.

16

17

18 STATEMENT

19

20 The affordable housing needs of the State should be satisfied in
21 an equitable manner throughout all municipalities, regardless of
22 demographic profile. For many municipalities, the satisfaction of
23 existing fair share affordable housing obligations could potentially
24 result in significant challenges to local population, infrastructure,
25 and school resources. This bill is meant to ensure that affordable
26 housing is provided throughout the State in an equitable manner,
27 while enhancing the choices municipalities have in determining
28 how to provide it.

29 This bill amends the "Fair Housing Act," ("FHA") P.L.1985,
30 c.222 (C.52:27D-301 et al.), to authorize the use of workforce
31 housing transfer agreements ("WHTAs") with respect to moderate
32 income housing obligations. The bill also establishes certain
33 funding priorities for municipalities that accept additional moderate
34 income housing obligations pursuant to a WHTA.

35 This bill would authorize municipalities to enter into WHTAs,
36 which allow a municipality to transfer some or all of the moderate
37 income portion of its affordable housing obligation, up to 50
38 percent of its total affordable housing obligation. As a result, the
39 bill maintains the prohibition on agreements to transfer a
40 municipality's low income housing obligation.

41 Under the "Uniform Housing Affordability Controls," a
42 development's "affordability average" is defined as an average of
43 the percentage of county median income, at which a development's
44 price-restricted units are affordable to low and moderate income
45 households (N.J.A.C.5:80-26.2). For example, if the rents for the
46 five price-restricted rental units in an affordable housing
47 development were affordable at 46, 48, 50, 52 and 54 percent of
48 county median income, respectively, the affordability average for

1 those units would equal 50 percent. The bill codifies this definition
2 in the FHA. The bill also defines “moderate income housing share”
3 as the percentage of all price-restricted housing units in new
4 developments in a municipality that are permitted to be moderate
5 income units, as opposed to low-income units.

6 The bill provides that a WHTA would increase or decrease, as
7 applicable, the moderate income housing obligations of
8 participating municipalities in proportion to the number of units
9 transferred in the agreement. The affordability average of
10 participating municipalities also would be adjusted to a lower or
11 higher percentage of county median income, as applicable, in
12 proportion to the number of moderate income units transferred.

13 Additionally, the bill provides that a workforce housing transfer
14 agreement may only be approved if the sending municipality
15 provides the receiving municipality funds in an amount not less
16 than the amount of funds necessary to defray the costs of
17 construction associated with fulfilling the moderate income housing
18 obligations, transferred pursuant to the agreement, if the
19 construction occurred within the sending municipality.

20 Under the bill, a receiving municipality may satisfy its increased
21 moderate income housing obligation through the provision of
22 “workforce housing.” Workforce housing is defined as housing that
23 (1) is affordable to households making between 80 and 120 percent
24 of the regional median income, and (2) may be reserved for
25 households having at least one member who works or resides in the
26 municipality upon submittal of the application for workforce
27 housing.

28 Additionally, the bill requires the Council on Affordable
29 Housing (“COAH”) to review a proposed WHTA to certify that it
30 contains sufficient safeguards to ensure that contributions to the
31 receiving municipality are applied for purposes consistent with the
32 agreement and the FHA. The bill directs DCA to adopt rules and
33 regulations setting forth the applicable safeguards.

34 This bill also allows municipalities which are located in different
35 housing regions to enter into a WHTA. Further, the bill prohibits a
36 municipality from avoiding development resulting from a builders’
37 remedy lawsuit through the use of a WHTA.

38 In addition, the bill establishes the following funding priorities
39 for municipalities that accept additional moderate income housing
40 obligations pursuant to a WHTA:

41 (1) DCA is required to establish a funding priority for housing
42 projects located in receiving municipalities when expending certain
43 funds (i.e., realty transfer fee receipts) from the “New Jersey
44 Affordable Housing Trust Fund”;

45 (2) The Housing and Mortgage Finance Agency is required to
46 give preference to affordable housing programs situated in
47 receiving municipalities when awarding funding;

1 (3) The State debt service aid provided to support approved
2 school facility projects is required to be increased by not less than
3 10 percent and not more than 30 percent for school districts
4 containing a receiving municipality, except that the district aid
5 percentage may not exceed 90 percent; and
6 (4) The Department of Transportation is required to provide a
7 funding priority to receiving municipalities when awarding monies
8 through the department's discretionary local aid program.
9 The bill also requires the Department of Environmental
10 Protection to expedite, to the extent possible, the review of any
11 permit or approval within its authority that is submitted in
12 conjunction with a proposal to develop affordable housing in a
13 receiving municipality.
14 Given that the construction of housing often places increased
15 pressure on a municipality's existing infrastructure, including
16 school facility and highway capacities, it is the intent of the sponsor
17 to provide receiving municipalities with the resources necessary to
18 fully accommodate the voluntary influx of affordable housing.